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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,509	02/21/2002	Jerome Vialle	01CON317P	9965

25700 7590 11/03/2004

FARJAMI & FARJAMI LLP  
26522 LA ALAMEDA AVENUE, SUITE 360  
MISSION VIEJO, CA 92691

EXAMINER
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HAROLD, JEFFEREY F

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/081,509

**Applicant(s)**

VIALLE ET AL.

**Examiner**

Jefferey F Harold

**Art Unit**

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-30 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 31-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. ***Claims 1-14 and 31-35*** are rejected under 35 U.S.C. 102(b) as being anticipated by Mark (United States Patent 5,583,933).

Regarding **claim 1**, Mark discloses a method and apparatus for the secure communication of data. In addition, Mark discloses a tone generation method for use in a communication system, the method comprising: receiving a first tone data indicative of a first tone; buffering the first tone data in a buffer, receiving a second tone data indicative of a second tone, buffering the second tone data in said buffer, retrieving the first tone data from the buffer, generating the first tone corresponding to the first tone data for at least a first predetermined period, waiting for a second predetermined period, retrieving the second tone data from the buffer, and generating the second tone corresponding to the second tone data for at least the first predetermined period, as disclosed at column 29, line through column 36, line 47.

Regarding **claim 2**, Mark discloses everything claimed as applied above (see claim 1), in addition Mark discloses wherein the first tone is a DTMF digit, as disclosed at column 29, line through column 36, line 47.

Regarding **claim 3**, Mark discloses everything claimed as applied above (see claim 1), in addition Mark discloses wherein the first predetermined period is approximately 50 msec, as disclosed at column 29, line through column 36, line 47.

Regarding **claim 4**, Mark discloses everything claimed as applied above (see claim 1), in addition Mark discloses wherein the second predetermined period is approximately 50 msec, as disclosed at column 29, line through column 36, line 47.

Regarding **claim 5**, Mark discloses everything claimed as applied above (see claim 1), in addition Mark discloses wherein the first tone data is a part of a NTE packet, as disclosed at column 29, line through column 36, line 47.

Regarding **claim 6**, Mark discloses everything claimed as applied above (see claim 5), in addition Mark discloses wherein the second tone data is a part of a NTE packet, as disclosed at column 29, line through column 36, line 47.

Regarding **claim 7**, Mark discloses everything claimed as applied above (see claim 1), in addition Mark discloses wherein the first tone is generated for approximately 40ms, as disclosed at column 29, line through column 36, line 47.

Regarding **claims 8-14 and 31-35**, they are interpreted and thus rejected for the reasons set forth above in the rejection of claims 1-7.

***Allowable Subject Matter***

2. ***Claims 15-30*** are allowed.

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**Conclusion**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jefferey F Harold whose telephone number is 703-306-5836. The examiner can normally be reached on Monday - Friday 9 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jefferey F Harold  
Examiner  
Art Unit 2644

JFH  
November 1, 2004